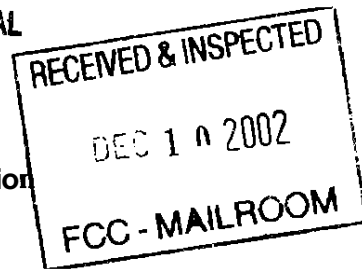




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Before the
Federal Communication Commission
Washington, D.C. 20554

In the Matter of

Rules and Regulations Implementing the
Telephone Consumer Protection Act of 1991

CG Docket No 02-278
CC Docket No 92-90

COMMENTS OF VER-A-FAST

I INTRODUCTION

Ver-A-Fast is a consumer marketing company which provides services to many local and national newspapers and other periodicals. In our experience, many business's "do-not-call" lists which are required to be kept pursuant to the Telephone Consumer Protection Act contain inaccuracies based on how often consumers move and change telephone numbers.

It is our suggestion that the FCC adopt a safe harbor allowing businesses to "scrub" their "do-not-call" lists if they have reasonable and reliable information that a consumer who has made a "do-not-call" request no longer resides and/or controls a given telephone number.

We urge adoption of a "safe harbor" to protect businesses which use verifiable information from local telephone companies regarding change of telephone number information and protect consumers whose numbers may have been owned by other previously.

II. COMMENTS

Pursuant to the Telephone Consumer Protection Act, businesses are required to keep "in-house" "do-not-call" lists to affect congress' desire to protect subscriber privacy rights. 47 U.S.C § 227(c). Pursuant to this statutory directive, the FCC created a regulatory framework for this "do-not-call" list requirement. 47 CFR § 64.1200(e).

That regulation requires that "if a person or entity making a telephone solicitation (or on whose behalf a solicitation is made) receives a request from a residential telephone

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subscriber not to receive calls from that person or entity, the person or entity must record the request and place the subscriber's name and telephone number on the "do-not-call" list at the time the request is made." Id

That same regulation requires that "a person or entity making telephone solicitations must maintain a record of a caller's request not to receive future telephone solicitations. A "do-not-call" request must be honored for ten years from the time the request is made." 47 CFR § 64.1200(e)(2)(vi)

This ten year requirement, however, does not adequately consider the fact that the average residential telephone subscriber only maintains control over a given telephone for far less than ten years. Considering, more than 16% telephone number changes in a given year, 20% of Americans move in a given year, and **58%** of Americans move within 5 years¹

Thus, many numbers on individual companies' "do-not-call" lists are no longer controlled by the consumer who initially made the "do-not-call" request. This causes the individual business's "do-not-call" list to be over-inclusive.

Ver-A-Fast proposes that the FCC adopt a requirement allowing businesses to remove telephone numbers from their "do-not-call" lists if that business has verifiable information from a local exchange carrier that the telephone number has changed hands and that the do-not-call request is therefore no longer valid for that telephone number. Such information could be maintained by the business for a period of time and would be relied upon by the business.

This allowance would enable consumers to benefit from offers which they may wish to receive, and never made a request not to receive, and would allow businesses such as Ver-A-Fast's clients, local newspapers, to adequately market to the new consumers who have moved into their subscription areas.

It is these types of consumers who would benefit most from new newspaper subscriptions. The current ten year period, with no allowance for changed numbers, extinguishes the opportunity for these consumers to receive information and businesses including our newspaper clients to engage in protected First Amendment activity.

Ver-A-Fast would therefore request that the "maintenance of 'do-not-call' list" section be modified to allow a safe harbor as follows.

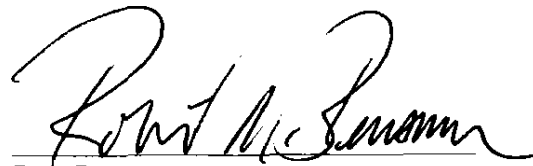
(vi) Maintenance of do-not-call lists. A person or entity making telephone solicitations must maintain a record of a caller's request not to receive future

¹ *SOURCE: Federal Trade Commission Summary June 19, 2002 article on American Teleservices Association Website. Statistics cited by telemarketing industry representatives at the Federal Trade Commission public hearings in Washington DC on June 5, 2002. For industry, five trade associations were included throughout the hearings – ATA, the Direct Marketing Association (DMA), the Electronic Retailing Association (ERA), the Magazine Publishers Association (MPA), and the National Retail Federation (NRF).*

telephone solicitations. A do not call request must be honored for 10 years from the time the request is made or as long as the caller maintains control of that residential telephone number. A business may remove telephone numbers from its list if it obtains verifiable information from a local exchange carrier that the consumer who made the 'do-not-call' request no longer controls the telephone number from which the 'do-not-call' request **was** made.

III CONCLUSION

I would welcome the opportunity to provide any additional information the FCC requests regarding this comment. It is our belief that our suggestions for the "do-not-call" rules would help consumers and business by insuring the accuracy of business' internal do-not call list.

A handwritten signature in black ink, appearing to read "Bob Bensman", written over a horizontal line.

Bob Bensman
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